

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 174, the nomination of Dr. Henry W. Foster, to be Surgeon General of the United States.

Senators Christopher Dodd, Carl Levin, Dianne Feinstein, James Exon, Harry Reid, Daniel K. Akaka, Claiborne Pell, Richard Bryan, Patty Murray, Bob Graham, Max Baucus, Frank R. Lautenberg, Russell D. Feingold, Barbara Mikulski, Barbara Boxer, Edward Kennedy, and Tom Daschle.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Dr. Henry W. Foster, Jr., of Tennessee, to be Surgeon General, shall be brought to a close. The yeas and nays are required. The clerk will now call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 57, nays 43, as follows:

[Rollcall Vote No. 273 Ex.]

YEAS—57

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Frist	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Gorton	Moynihan
Bradley	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Heflin	Packwood
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Campbell	Jeffords	Reid
Chafee	Johnston	Robb
Cohen	Kassebaum	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Simon
Dodd	Kerry	Simpson
Dorgan	Kohl	Snowe
Exon	Lautenberg	Specter
Feingold	Leahy	Wellstone

NAYS—43

Abraham	Gramm	McConnell
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Pressler
Brown	Hatch	Roth
Burns	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Smith
Coverdell	Inhofe	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 440, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, under the previous order, the next amendment is that of the Senator from Maine, Senator SNOWE, as I understand it; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. I understand she is willing to let the Senator from Missouri make a statement for up to 5 minutes.

The PRESIDING OFFICER. That is the Chair's understanding. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my distinguished chairman and the Senator from Maine.

Mr. President, it was a real pleasure for me on February 16 of this year to join the distinguished chairman of this committee, the ranking member, Senator BAUCUS, and chairman of the subcommittee, Senator WARNER, with whom I joined in introducing S. 440, the National Highway System Designation Act of 1995.

Since its introduction, the Subcommittee on Transportation and Infrastructure, of which I am a member, conducted four hearings, had a full committee markup and moved this bill to the point where we are now. This is a priority measure. I am very grateful for the bipartisan leadership and support that this measure has obtained.

The concept of the NHS was authorized in the big Federal highway bill, ISTEA, to solicit State and local input in designing a national transportation system which would move people and goods efficiently and safely across the country.

This is something I have worked for throughout my career in State and Federal government, and it has always been important to those of us in my State of Missouri, that we who are at the crossroads of the Nation be included in a modern national network that would provide Missouri the same kind of full access to the markets that the coasts currently have, and it would provide our friends and neighbors from other States the opportunity for effi-

cient transportation through the heartland of the Nation.

NHS was developed from the bottom up. In our State, the highway and transportation department coordinated with metropolitan planning organizations, regional planning agencies, highway groups and local officials to determine the highway priorities.

Missouri then acted promptly in submitting the approved plan to the Federal Department of Transportation for incorporation into the overall system. This, to me, Mr. President, is a great example of the cooperation between Federal, State, local governments, and private sector organizations, and we should encourage this kind of cooperation in the future.

In its entirety, as the Members well know, NHS will be a 159,000-mile network of interstate highways, major arterials and key corridors across the United States. These highways will carry more than 75 percent of all commercial traffic, although they comprise only 4 percent of the Nation's highway mileage. For our State of Missouri, Mr. President, this means 3,490 rural and 973 urban miles of highways that are the most economically important roads in the State, carrying 46 percent of all motor vehicle traffic.

The NHS will be the backbone of our transportation infrastructure network. They will carry over 40 percent of the Nation's highway traffic, 75 percent of heavy truck traffic, and 80 percent of our tourist traffic, which is vitally important to us. These highways are critical for both State and interregional commerce. These highways are the economic lifeline, especially for States like mine.

I know that in striving to reach a balanced budget by 2002, we have to make tough choices and recognize that the Government cannot do it all. But by developing and passing the NHS, we are establishing priorities, priorities on our highway and transportation needs, in order to ensure that we invest our limited funds wisely. We recognize the role that the transportation infrastructure has with the state of our economy. It is imperative that these critical things receive priority attention.

We must realize the importance of this legislation being passed and signed into law by September 30 of this year. Without passage, States will not receive their apportionments of \$6.5 billion. There is \$156 million for our State of Missouri. We cannot delay or hinder the passage of this bill which means so much to our constituents. I join my colleagues in urging prompt adoption of this measure here. I also urge our colleagues in the House to act on this legislation before it is too late. This is of vital national concern.

Mr. President, I thank the Chair, and I particularly thank the distinguished Senator from Maine for yielding time to me.

AMENDMENT NO. 1442

(Purpose: To eliminate the penalties for non-compliance by States with a program requiring the use of motorcycle helmets)

Ms. SNOWE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mr. CAMPBELL, Ms. MOSELEY-BRAUN, Mr. SMITH, Mr. FEINGOLD, Mr. KOHL, and Mr. KEMPTHORNE, proposes an amendment numbered 1442.

Ms. SNOWE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. . ELIMINATION OF PENALTIES FOR NON-COMPLIANCE WITH MOTORCYCLE HELMET USE REQUIREMENT.

Section 153(h) of title 23, United States Code, is amended by striking "a law described in subsection (a)(1) and" each place it appears.

Ms. SNOWE. Mr. President, I am now offering an amendment today, along with my colleague, Senator CAMPBELL from Colorado, as well as my colleagues, Senators MOSELEY-BRAUN, SMITH, FEINGOLD, KOHL, and KEMPTHORNE. Essentially, what our amendment would do is to repeal the penalty that would be imposed on those 25 States that have yet to pass a mandatory helmet law.

Yesterday, Senator SMITH from New Hampshire offered an amendment that included both seatbelt and helmet laws. That amendment failed. So I am now offering today an amendment that would help 25 States—half of our country—who have yet to pass a mandatory helmet law.

We had considerable debate yesterday as to whether or not it is appropriate for the Federal Government to intrude upon decisions that rightfully belong to the States. We began this Congress with a pledge to reduce the size and the scope of the Federal Government and to restore the ability of States to resolve their own problems with their own solutions and with their own people.

I think we need to hold firm to that commitment. It is not a one-time deal or a part-time arrangement that we have for the people of this country to meet a commitment that they demanded in the last election. Reducing the size, scope, and intrusion of the Federal Government is a central part of our legislative agenda in this Congress. That is why I am introducing this amendment here today. It is one that I have worked on and Senator CAMPBELL has worked on over the years. We happen to think that it is inappropriate for the Federal Government to impose on the States a mandate and a requirement that they have to enact specific laws, otherwise, in this instance, they lose a percentage of their transportation funds.

As we know it, ISTEA was passed in 1991, and penalties took effect a year later, and States could enact both a mandatory seatbelt and helmet law. There are two States that have yet to enact seatbelt laws—Maine and New Hampshire. There are 25 States that have yet to enact mandatory helmet laws. And these penalties take effect in October of 1995, whereby 1.5 percent of the transportation funds from that particular State will be diverted to safety education programs. In 1996, it will be 3 percent of the transportation funds that will be diverted to safety education programs. All told, that represents, in the year 1995, a loss, as exemplified by this chart, of \$48 million to those 25 States in badly needed highway improvement funds or bridge repair.

In 1996, the penalty is doubled to \$97 million for those 25 States. They will lose precious transportation funds—funds that already had been appropriated to the States, which I think is very unprecedented, and will be used for safety education programs.

If you look at the State of Illinois, it would lose \$12,480,000 in the year 1996. Ohio will lose, in 1996, \$9,280,000. That is a substantial amount of money to be lost for any State when it comes to highway repair. Certainly, it is true for my State of Maine, which has more than 22,000 road miles in the State. We need every dollar we can use for highway repair.

Now, under this penalty, the State of Maine will be required to double the amount of money for safety education programs, to more than \$1 million, as a result of this penalty. It will be money that cannot be used for highway road repair if they do not pass a mandatory helmet law. I think that, frankly, is the wrong approach to take. It is, again, Federal Government micromanaging State policy. It is demonstrating the arrogance of the Federal Government. It certainly represents an excessive reach of the Federal Government and, again, the coercive means that the Federal Government is willing to use to force States to be brought into line with what the U.S. Congress considers to be politically correct.

The penalties that will be levied are going to be substantial, as I mentioned before. But more important is the fact that the States already recognize the importance of safety education programs. In fact, 44 States already have in place rider education programs for motorcycle riders. It was not because the Federal Government bullied the State into establishing those programs. No. It was something that the States recognized on their own as essential to improving motorcycle riding safety. And that is why I believe that fatalities and accidents have been substantially reduced over the last decade—far ahead of the time before these penalties even took effect under ISTEA when it was passed in 1991.

Those 44 programs represent \$13 million to the States, and they raised that

funding by imposing fees on motorcycle registration and licenses. In my State of Maine, we have a \$500,000 program. It has proven to be valuable, essential, and effective in reducing fatalities of motorcyclists. In fact, in Maine in 1993, we ranked the second lowest in the country for motorcycle fatalities. I think it does prove that those programs become very effective toward reducing accidents on the road and certainly fatalities.

That is why I think the States should be allowed to determine their own policies with respect to safety on the highways and certainly with respect to motorcycles.

Since 1983, the number of accidents have decreased from 307 per 10,000 registered motorcyclists to 206 in 1992. Fatalities similarly declined from 8 per 10,000 registered motorcyclists in 1983 to 6 per 10,000 in 1992. This shows, in my opinion, a remarkable decline. And this all occurred, as I said, prior to the enactment of section 153 that went into effect, I think demonstrating clearly that the heavy-handed treatment by the Federal Government is not essential to improving motorcycle safety. The States are certainly better able, better prepared, and better equipped to address those issues.

I was somewhat disturbed yesterday by the tenor of the debate. I think there is some feeling that somehow the Governors and State legislatures are somewhat less concerned or disinterested or unresponsive to what is happening on their own highways and roads.

I do not think there is anything that could be further from the truth. The fact is, motor vehicle laws have always been within the purview of State government. It has been traditionally their jurisdiction. I think there is nothing wrong with the Federal Government creating incentives for establishing certain programs or passing certain laws.

We should not be imposing heavy-handed penalties to force the States to do something that they do not deem appropriate or in their interests. That is for themselves to determine in making and creating State policy.

In response to the chairman's comments yesterday, the chairman was saying in any of the competitions for motorcycle riders, they are required to wear helmets. I think we can say very safely that many feel that people should wear helmets. But that should not be a decision made by the Federal Government.

The question of who decides who should wear helmets should be appropriately placed with the States. For personal safety, I certainly would recommend, and I have worn a helmet when I have ridden a motorcycle, because I think it is important.

The chairman made the comment yesterday that there is a requirement at these competitions that riders wear helmets. Mr. Dingman sent a letter to the chairman. I quote from it:

As part of your justification for keeping in place the section 153 penalties on States that do not have mandatory helmet laws for all riders, you stated that the AMA requires all riders to wear helmets in the competitive events we sanction. I would like to point out that although regarding the American Motorcycle Association races, sanctioning policies are established by riders committee through a democratic process.

In seeking to repeal the section 153 penalties, we simply want to give the States the same ability to make a decision regarding helmet laws through a democratic process without coercion from the Federal Government.

I think that is the bottom line here. What we are attempting to achieve through this amendment is to allow the decision to be made by the State legislatures and the people in those States. That is what we should be doing. That is the kind of approach, I think, that should be taken at the Federal level, to leave those decisions that are best made by the State governments to the States.

Finally, I would also like to quote a letter by the Governor of the State of Wisconsin, Governor Thompson.

Mr. President, he writes:

Wisconsin cycling community, in their legislatures, has said our State does not want or need a law requiring all motorcyclists to wear helmets. The most recent efforts to enact such a law was unsuccessful in the 1994 legislative session. Instead, Wisconsin relies on a partnership approach marked by responsible riding and effective training and safety programs. This approach is working well. During the past 12 years, without a mandatory helmet law, Wisconsin has continued to pose one of the Nation's best motorcycle safety records. Still, Federal laws require States to pass mandatory helmet laws covering all motorcyclists by October 1, 1995, or face strict penalties. If Wisconsin does not pass a mandatory motorcycle helmet law by this Federal deadline, more than \$7 million in Federal funds will be taken away from highway projects and transferred to motorcycle safety programs of the next 2 years.

Instead of leading the charge for a mandatory helmet law in Wisconsin, I am leading the fight in Washington against burdensome Federal mandates. Wisconsin must have the freedom to choose what works best for our State without facing costly, one-size-fits-all Federal laws that tie our hands. I hope you support this effort by contacting your U.S. Senator or Representative, urging them to help repeal the helmet law mandate. The decision on whether to require helmet use must be made by individual States, not by the Federal Government.

I think that is well said.

Again, I want to underscore another point, as mentioned by Governor Thompson. The fact is, Wisconsin has a very effective rider safety education program and has one of the best safety records in the country. Yet they do not mandate the use of helmets. They are not going to change their law in the State of Wisconsin regardless of what the Federal Government does with respect to the penalty imposed on them through the use of transportation funds.

The point is, even prior to the imposition of penalties, 24 States out of the 25 said that they had not passed man-

datory helmet laws. Only one State, since ISTEA passed in 1991, the State of Maryland, passed a law. That was before the penalty was in place. That was so they could qualify for an incentive grant program for additional funding.

The point is that over half of the States, or half the States, in this country have not adopted the helmet law because they think it is a decision that should not be forced upon them by the Federal Government. I certainly could not agree more.

I hope my colleagues will support my amendment to repeal this intrusive measure so the States can make their own decisions and their own policies. I yield the floor.

Mr. CAMPBELL. Thank you, Mr. President.

They say here on some bills that everything that can be said about an issue has been said, but not every Senator has said it. Yesterday we were in debate well over 2 hours on the Smith amendment. I would like to point out there was a very clear difference. We had some people yesterday who said that if the amendment did not deal with seatbelts, they thought they could support it.

I would like my colleagues to know that the Snowe amendment does only deal with helmets and, in fact, does not repeal anything. It simply stops the blackmailing by the Federal Government of States to pass mandatory helmet laws.

In my opinion, the 25 States out of compliance are not going to change. A number of States have repeatedly voted down mandatory helmet laws, as has our State of Colorado. I think they will continue to do so.

If a Senator is from a State that is out of compliance, I think the Senator will be asked by constituents, when they go home, why did that Senator vote to continue penalizing a State if that Senator did not support the Snowe amendment? Why did Senators take the right away from citizens in their own State to make that choice?

Those States include Alaska, they will be penalized over \$2 million, \$2.7 million; Arizona will be penalized over \$2 million; my State of Colorado will be penalized \$1.9 million; Connecticut will be penalized \$2.3 million; Delaware, \$735,000.

I will read all of them so those Senators who may not know if their State is out of compliance or not, will know at the end of this.

Hawaii will be penalized \$1.334 million; Illinois, \$6.12 million; Indiana, \$2.934 million; Kansas, \$1.6 million; Maine, \$853,000; Minnesota, \$2.192 million; Montana, \$1.6 million; New Hampshire, \$800,000; New Mexico, \$1.9 million; North Dakota, over \$1.1 million; Ohio, over \$4.6 million; Oklahoma, \$1.9 million; Rhode Island, \$700,000; South Carolina, over \$1.734 million; South Dakota, \$1.1 million; Utah, \$1.69 million; Wisconsin, the State from which we just had the letter introduced in the

RECORD, Governor Thompson's State, penalized \$2.4 million, yet they have repeatedly voted down mandatory helmet laws; and Wyoming, your State, Mr. President, will be penalized over \$1 million if the Snowe amendment does not pass.

My State of Colorado has no helmet law. We had one until 1977. Have not had it since then. The Colorado State Legislature has repeatedly refused any attempt to implement one. The last time it was up, it lost in committee by 6 to 1.

We do not need the U.S. Senate or any Federal agency second-guessing our legislature on that issue. Yet that is exactly what we are doing in Colorado and the other 24 State legislatures if this amendment is not adopted. I do not think there is any question that helmet laws do not prevent accidents, nor do they make safer drivers. For the 14-year period between 1977 and 1990, States with mandatory helmet laws had 12.5 percent more accidents and 2.3 percent more fatalities than did States that did not have mandatory helmet usage.

In the past decade, motorcycle fatalities have decreased 38 percent and accidents have plummeted 41 percent. I think those figures are particularly impressive because the Federal Highway Administration estimates that the average vehicle miles traveled by motorcyclists has increased 85 percent since 1975. These statistics are unmatched in any other category of road user, passenger, or commercial.

The opponents of the Snowe amendment will tell you the reason those numbers of deaths and injuries have gone down is because of mandatory helmet laws. We disagree. We believe in most cases they have gone down because we have better trained riders, that through rider education training throughout America we simply are getting more people who are riding that understand the dangers and are better riders.

What can account for the decrease in accident fatalities? Evidence clearly indicates that the most effective way to reduce motorcycle accidents is through comprehensive education programs. Many of us think, in fact, it should be established in the schools just as driver education is for automobiles.

Currently, 42 States have established and funded some sort of safety programs. They have done that without the Federal Government mandating that they do so. The national average of motorcycle fatalities per 100 accidents is 2.95 per 100. States with rider education programs and no helmet laws, however, have the lowest death rate, 2.56 fatalities per 100 accidents. States with mandatory helmet laws and no rider training have a significantly higher rate of 3.09 fatalities per 100 accidents.

We are talking on the floor almost every day about Federal mandates. I do not remember the exact vote, but some

months ago we overwhelmingly passed the unfunded mandates bill on the floor of the U.S. Senate in which we basically said we heard from our constituents across America who said, "Get the Government somewhat out of our business and curtail some of the mandates you are making in the U.S. Congress that forces States to do things against their will." Many believe in part that message in the last election was almost all about getting Government reduced in size and out of our personal decisions.

I happened to see a license plate the other day from the State of my friend, Senator SMITH of New Hampshire, that I thought was rather interesting. It was a license plate made by the State of New Hampshire. On the license plate it says, "Live Free Or Die." That may sound a little arcane in this day and age, but the fact of the matter is many Americans still believe they have enough Government imposed on them and they should be able to make more decisions in their own private lives.

While it can be argued that mandating these things would be good for America's citizens—and I am sure some of the opponents of the Snowe amendment may so argue—is it right to have the Federal Government intrude in our lives to the extent they tell us how to dress for recreational pursuits? I think that is absolutely wrong, and I strongly urge my colleagues to support the Snowe amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join my distinguished colleagues in support of this amendment to repeal the law that levies financial penalties on States that have not enacted mandatory helmet laws.

Mr. President, when you say the words "right to privacy" these days, most Americans think of reproductive freedom and more specifically of a woman's right to choose. Although reproductive freedom is certainly an important part of the individual liberty protected by our constitutional right to privacy, the right to privacy really does encompass much more.

One of the best definitions of its scope and its importance came in a 1928 dissent by Justice Louis Brandeis in the case of *Olmstead versus United States*. In that opinion, Justice Brandeis stated:

The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness . . . they sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone, the most comprehensive of rights and the right most valued by civilized men.

The authors of the Constitution knew all too well the danger posed by a Government that did not respect individual privacy. For that reason, privacy is protected explicitly by the 4th, 9th, 10th and 14th amendments to our

Constitution and, indeed, by the very foundation and structure of that document.

When it comes to supporting our constitutional right to privacy, I am as determined as they come. In fact, everything I do here in the U.S. Senate is dedicated to protecting and promoting the rights and liberties of all Americans. That is why I have cosponsored this legislation during both the 103d and 104th Congress, legislation that would strike the provision in the Intermodal Surface Transportation Act which infringes on our right to privacy by forcing citizens to wear motorcycle helmets. More specifically, this provision forces States to enact mandatory motorcycle helmet laws by transferring highway construction funds to highway safety programs in States that failed to enact such laws.

Since Illinois is one of only three States without a mandatory motorcycle helmet law, the U.S. Department of Transportation has already transferred more than \$6 million from our highway construction program to the highway safety program in fiscal year 1995. It is expected to transfer more than \$12 million out of this very important program, the construction program, in fiscal year 1996.

Although I do not own a motorcycle, I ride one every chance I get, and sometimes without a helmet. Like many Americans all across the country, I love the feeling, the sensation, the enjoyment that I get from that experience.

Just a few months ago, I joined 3,000 members of ABATE of Illinois on a freedom ride from the Illinois Department of Transportation to the Illinois State Capitol to remind members of our State legislature that our democracy is only as strong as the rights and the liberties of its citizens. So the question of individual freedom and privacy is paramount in my analysis of this issue.

This issue is not about whether or not people should wear a motorcycle helmet. I, frankly, encourage everyone to do so. In fact, there is the old motorcyclist's shorthand phrase, "Those who do not wear helmets do not have brains to protect." The fact is, you should wear a helmet when you are riding.

The question, however, here, is whether or not the Government should be making that decision for me or for any other American. To that question my response is a resounding "no." The fact of the matter is, there is insufficient data to suggest that, by forcing States to give up money by forcing States to transfer highway dollars in behalf of dictating what motorcyclists should wear, that there is any real public policy served by that. If the Federal Government wants to increase motorcycle helmet use, it should invest more in highway safety education programs like the very successful motorcycle training program in Illinois instead of forcing States to enact mandatory helmet laws. Those programs give individ-

uals the information they need to make informed decisions regarding safety, training regarding the proper use of motorcycles, and how one should properly operate that machine.

The fact of the matter is, however, this is a mandate that goes too far. This is an infringement on individual choice. This is an infringement on the right to privacy. I believe this amendment should, therefore, be supported by everyone who cares about our capacity as Americans to make decisions, personal decisions, regarding personal safety.

I encourage my colleagues to support the Snowe-Campbell-Moseley-Braun-Feingold-Kohl amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I feel very strongly this is a bad amendment. I regret it has been brought up. Yesterday, we debated the seatbelt bill containing this provision in it. It was defeated. The seatbelt part was dropped. And now we are strictly debating motorcycle helmets and whether the Federal Government has the right, as it is currently doing, to provide an incentive, if you would, for the States to enact a helmet law or, if they fail to do so, they will be deprived—some of their funds will be directed into highway safety rather than into road construction.

I would just like to set the record straight here, if I might, because various suggestions have been made.

First of all, the Federal Government is already deeply into highway safety. The Federal Government, through the National Highway Traffic Safety Administration, sets all kinds of standards on motor vehicles. No one is suggesting we ought to be able to have an absence of safety glass in our automobiles, of course not. That is set, standards are set by the so-called NHTSA, the National Highway Traffic Safety Administration.

They set standards for brakes and bumpers, safety belts, airbags, all of those things are by the Federal Government. Why? Because the Federal Government cares about the safety of our people. And, furthermore, let us never forget the cost to the Federal Government if people are injured. This particularly goes to those who are riding motorcycles without helmets who suffer severe head injuries that could have been prevented.

Do we only get into the vehicle itself when I am talking about safety glass and seatbelts and airbags and so forth? Or do we get into the rider or the driver? Of course, we get into that in the minimum drinking age. We now have a provision in the law that says every State has to enact a minimum drinking age of 21 or else they will lose some funds. As a result, every State has enacted that, and there is nobody who gets up on the floor and says that is the wrong way for the Federal Government to go, we should not be doing

this, that this is big, bad Federal Government, it is coercion. It is a fine measure.

Yesterday, we kept the provision in there dealing with seatbelts. Indeed, we kept the provision dealing with helmets. But the seatbelt one has been dropped, as I mentioned. There is a suggestion that we should not be doing this. What is the Federal Government doing in this through the Senate and the House of the United States? Leave it to the democratic process. Well, I do not understand that. Is there a suggestion that State legislators are democratic and the Congress of the United States is not? I do not follow the argument that it is perfectly all right for a State to do it, but somehow it is wicked for the Federal Government to do it.

But the principal point I want to get back to is the Federal Government, the Federal taxpayers, pay the bills when these horrible injuries occur. And there is not anybody here who has spoken to a physician or a nurse who has worked in an emergency room who will not tell you, that individual will give horror story after horror story of what has happened to individuals they see in the emergency room who suffer terrible injuries in a vehicle when they did not have their safety belt on, or were riding a motorcycle when the individual did not have a helmet on.

One of the arguments given here is the answer is not to mandate this through the coercion of losing funds if you do not pass it. But it is to have rider education. No one argues against that. Sure, rider education is great. No one objects to that. All the better. But it is not one or the other. I have difficulty following the argument that, if you have rider education, you do not need helmets.

We do not say that if you have driver education, as is required in the schools in my State, and I presume in many of the States, or safety efforts that are made on the highways. I remember we used to talk about the three E's: education, enforcement, and engineering. All of those apply: education in the driver training; enforcement, with the police making sure there is not excessive speeding; and engineering in the design of our highways. But it is not those and not something else. Sure, in addition to all of this, we have seatbelts for those in automobiles. And we ought to have motorcycle helmets for those who are riding motorcycles, and the passengers likewise.

The argument somehow is made it does not do any good. I do not think anybody is serious about that. Nobody knows better than these riders that the helmet is a preventive measure. It is a safety measure.

I listened carefully while the Senator from Maine read the letter from the head of the motorcycle association. And yesterday I said that the motorcycle association in its sanctioned meets requires a helmet to be worn. The letter that was read, as I understood it—and I stand to be corrected—

did not refute what I said. It said that is arrived at in a democratic process. But that does not get around the point.

The point I was making is that those who are fighting this so vigorously, their own activities require it. It is not up to the choice for each motorcyclist to do what he wants, freedom of expression, the chance to have the wind blowing through his or her hair. It is required, and it may be through a democratic process. But it could well be that there are 51 votes for it and 49 votes against it. But it is required. And if the Senator from Maine finds I am wrong in the way I interpreted what she said, I would be pleased to learn that because my understanding is—we have checked this before—that in the sanctioned meets by the motorcycle association, helmets are required. It makes no difference that it is arrived at in a democratic process. This is a democratic process. We are voting here on the floor.

There is another suggestion that seems to be made here that this is a wicked thing we are doing, or have been doing, because after all, this law has been on the books for nearly 4 years because it costs the States money. It does not cost the States money. We do not take money from the States, from the amounts that they are allocated under the highway legislation. They get the same amount of money.

The only thing is that in 1991, we said in the so-called ISTEA legislation, the Surface Transportation Efficiency Act of 1991, that if you do not pass a law mandating the use of helmets and seatbelts, then a certain proportion of that money, an increased proportion, must be devoted to safety measures, to education and safety training. That has been done in many States. Over 22-odd States that do not have this legislation have to put that money into education. That is their choice. They made that choice. If they want the highway money, they can pass the legislation.

They say that is coercion. Well, I do not think it is. It seems to me that if you are paying the bill, as the Federal Government is doing through Medicaid, over 50 percent in every instance, taking care of these people who are so severely damaged as a result of the absence of a helmet, we have a right to levy some requirements.

Do helmets save lives? I do not think anybody questions that. That is not to say that education does not, or driver training and experience does not save lives. But so do motorcycle helmets.

Over the past 10 years, motorcycle helmets have saved over 6,400 lives and prevented over 25,000 serious injuries. If every motorcyclist wore a helmet, nearly 800 lives would be saved every year. Unhelmeted motorcyclists involved in collisions are three times more likely than helmeted motorcyclists to incur serious head injuries that require expensive and long-lasting treatment. No one will argue with that. I mean, that is common sense.

These are two experienced riders. I would be interested if they, one, wear helmets; and, two, if they think helmets are useless and do not do any good.

Second, the cost of overall motor vehicle crashes, including motorcycles, is staggering to the country. The only reason I combine automobiles and motorcycles in this particular statistic is because we do not have figures broken down by the National Highway Safety Administration. But motor vehicle crashes cost over \$137 billion each year.

Even for somebody from Washington, \$137 billion is a lot of money. Over the past 10 years, motorcycle helmets have saved over \$6.4 billion a year, according to the statistics I have.

Let me just give you a little instance. I have used this statement before. But it is one that I am familiar with because it came up in my State. We have in our State hospital an individual who, through an unhelmeted accident, has been in a coma for nearly 20 years, and 24 hours a day has to be cared for, fed and cared for, at a cost to taxpayers of over \$2.5 to \$3 million.

What do we do? Here we all are in the Senate and in the House, always talking about preventive measures, always talking about the skyrocketing costs of medical care in the United States. We have to do something about Medicaid and Medicaid. We have to do something about hospital costs. Here is about as effective a way as possible.

Is this going to solve all the health cost problems of our country? Of course, it is not. But every little bit counts.

Here is a statement from a doctor from the Centers for Disease Control.

We are unaware of any evidence that demonstrates that testing or licensing or education alone leads to anywhere near the improvement in helmet use that mandatory laws produce.

What he is saying here is do not leave it up to the States to do what they want, because what will happen is we will not have the laws.

Now, there is objection by the Senator from Maine to the suggestion I made that State legislatures and State legislators are more subject to pressure than we are. And that is true. I served in a State legislature, so I know something about it. The motorcyclists of the country are a very, very dedicated single-issue group, and they will descend on a legislator and put on a full-court press. And that is the issue that they will vote on. It is the epitome of the single-issue vote. And that legislator in his or her district frequently, in their desire to be reelected, which is nothing unique, nothing unusual in our country, says OK, if you care so much about it, I will go along. I will vote against any effort to mandate motorcycle helmet use.

How can I say that? Because in 1966, we enacted a law right here in the Federal Government that said you had to have helmets, and in 1976 we repealed it. As soon as the Federal Government

repealed that incentive, the 28 States likewise repealed what they had on the books, including my own State of Rhode Island, and we have not been able to get that back on the books yet in my State despite the presence of this law and despite the fact that we desperately need highway funds.

Now, has it worked when we have passed this legislation and States have adopted it? Has it worked? Well, I will quote California again. I suppose there are more motorcycle riders in California than in any State in the Nation—total. Maybe not per 100,000 people but total riders. The number of fatalities in California, after they enacted a mandated helmet law, dropped by 36 percent. The number in Maryland, after they adopted it, dropped 20 percent. Of course, there are millions of dollars in savings by the States once these accidents and fatalities had been reduced.

So, Mr. President, I very much hope that we will not approve this amendment of the Senator from Maine.

I have a question I would like to ask the Senator from Maine. That is, one, does she agree that there are substantial costs involved in the accidents that come to those unhelmeted riders? That is the first question. Second, are those costs to a considerable degree borne by the Federal Government? Those are the two questions I have.

Ms. SNOWE. I appreciate them. In response to the Senator's questions, first of all, as I said in my statement earlier, when I have ridden a motorcycle, I have always worn a helmet, and I certainly would advise anybody who is riding a motorcycle to wear a helmet.

The question is, Who should decide when someone wears a helmet? Should the Federal Government decide it or should the State decide it? That is the question we are trying to determine here today. It is a basic philosophical question that needs to be addressed. I do not happen to think the Federal Government should be the determining factor in who is going to wear a motorcycle helmet.

The second question is in terms of incurring costs, and I mentioned yesterday, where do we draw the lines in terms of personal and social behavior and what impacts Federal health care costs? That is a basic question. Because, first of all, we know there is behavior that could result in more costs in the Medicaid Program, for example. If somebody smokes, it leads to cancer. If somebody does not engage in a good diet or engage in regular exercise, it leads to heart disease. Or chewing tobacco. Whatever the case may be, that results in more health care costs.

Where do we at the Federal level draw that line? That is also a question that needs to be addressed here today.

To even answer the Senator's question more specifically, I would like to mention a study that was conducted at the Harbor View Medical Center in Seattle, WA. They reported that 63.4 percent of the injured motorcyclists in the

trauma center relied on public funds in order to pay their hospital bills. According to testimony by the director of the trauma center, 67 percent of the general patient population also relied on taxpayer dollars to pay their bills.

A study that was conducted by the University of North Carolina Highway Safety Research Center found that 49.4 percent of injured motorcyclists had their medical costs covered by insurance, while 50.4 percent of the other road trauma victims were similarly insured.

So I think, first of all, we are being selective here in who do we determine is impacting health care costs. But secondly, the question is whether or not the Federal Government should intrude to such an extent as to require States to pass laws. And the Senator mentioned that it does not cost the States any money. Well, technically the Senator is correct. But that money is transferred to programs that are already well-funded.

Does it make sense for my State to have to pay twice as much in safety programs when it has already determined that it is not necessary, that \$500,000 is sufficient, not \$1.3 million? That is not money they can spend on other things that are also essential to the well-being and the welfare of the residents of my State.

So I would suggest to the Senator that by singling out motorcycle riders and saying that they are having the greatest effect on our medical costs in the country is certainly not a fair characterization. I just do not happen to think that this is an appropriate area for us to be governing here in the Congress.

I, too, was in the State legislature in the State of Maine for 6 years, and I do not think the pressures on a State legislature are any different than the pressures we face by any one group by serving in the Senate or the House of Representatives. I doubt anybody would believe it if you suggested differently.

The fact is, looking at the merits of this question, 24 States had already adopted helmet laws before the ISTEA penalties took effect—24 States. They had already decided in their own wisdom that it was important for the residents of their States to have that requirement. So they decided it on their own, to their credit.

The Senator mentions the State of California. Well, again that is another example. The State of California passed its law prior to ISTEA passing in the U.S. Congress in 1991. It took effect before ISTEA was even passed in the Congress. So they determined it in their own wisdom. They do not need the Federal Government telling them what to do. That is what the whole issue is all about.

Mr. CHAFEE. Well, Mr. President, I do not think that is what it is all about. Everybody can define the issue as they wish. But the real question is does the Congress have any interest in

the safety of its citizens riding its roads. And I believe we do. We have a deep interest. We have a deep interest because of the pain and suffering that arises but also because of the costs.

The Senator from Maine is familiar with the letter that came from the Eastern Maine Medical Center, which she herself received. It is a study of the Medicaid costs that arise with those who are unbelted or with no helmets. It is a very, very persuasive study that was done.

What are we talking about when we are talking Medicaid? We are talking Federal dollars. And so for that reason alone—never mind the suffering that arises. I have seen it. I am sure the Senators from Colorado and Maine have likewise visited their rehabilitation centers and seen individuals who were so severely damaged because of head injuries as a result of not having helmets, some who end up in comas, some who end up in terrible physical condition. These could have been avoided.

I just cannot understand that we go backward. It is on the law now. It is not resisting the presence of the law, the enactment of the law. It is repealing the law. And yesterday, thank goodness, we rejected the effort to repeal the seatbelt requirement, and I hope we will reject this effort to repeal the motorcycle helmet effort.

Mr. CAMPBELL addressed the Chair. The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I would like to respond to a few of the comments my friend, Senator CHAFEE, has made.

First of all, since I come from the State of Colorado, I can tell him that I called the State agencies to try to find out if there was any agency in our State that kept track of people who are being paid because they were incapacitated under what is commonly called the "public burden theory." The public burden theory, as I mentioned yesterday, basically says that if you are injured and you have no insurance and no way to pay for your hospital bills, the public picks up the cost. In the State of Colorado there are no numbers whatsoever that define which people are incapacitated by automobile injuries, by motorcycles, by skiing or anything else. If they are injured, they do not have an insurance policy and they do not have finances to take care of themselves, they are put in a pool. That is what I am told by the State of Colorado.

I would also like to point out that we are concerned that the Federal Government sometime or other is going to get involved in defining all forms of personal behavior that have some element of risk. That may include skiers in my State. We had something like five deaths this year on the slopes of Colorado. None of them were wearing a helmet. Perhaps we should mandate that they do because it is on Federal ground and, therefore, the Federal Government has some kind of a vested interest.

In the State of California, since my colleague mentioned that a number of times, I would tell him that bicycles recently in the State of California came under a State law that requires everyone to wear a helmet that rides a bicycle. But the Federal Government did not mandate it. It let the State of California make its own decision. And if that is what the people of California want, and the legislature, their elected officials want, then that probably fits all right in the State of California. I do not think we would want it in Colorado. But clearly we let them make the decision.

Now, I mention California because there is over 100 times more head injuries and automobile accidents than there is on motorcycles and over ten times more deaths.

Recently—several years ago, in fact—there was an assemblyman named Dick Floyd of Hawthorne, CA, who told a radio audience in Los Angeles that he favored a helmet law for automobile drivers and was thinking of introducing a bill to mandate that everybody that drives an automobile in California wear a helmet, even though there have been instances where the California Highway Patrol have given citations for people that were wearing a helmet in automobiles. And the reason they gave them is because they cut down hearing and visibility. Mr. Floyd's comments came during a debate during appearances concerning a helmet bill which he introduced in California, and did pass, by the way, for motorcycles. Mr. Floyd was not re-elected. So he is no longer in the State legislature, probably for a good reason, because I think he believed in taking away personal choices and personal freedoms.

There is another thing I would like to say. I hope that my colleague, Senator CHAFEE, does not imply that within States where people elect their own legislators they do not have elected officials that can make decisions for their own constituents and that we should overrule them at the Federal level, because I think that is absolutely wrong.

He mentioned something about who pays the bills under the highway users trust fund, the gasoline tax. But we have 3.5 million people in Colorado, most of whom drive, who pay money every time they buy a gallon of gasoline in any gas station, as your State of Wyoming does, the State of Maine does, where my colleague, Senator Snowe, is from. That money goes into a pool, the highway users trust fund, that people in those States have every right to expect to be paid back for construction in the States. There was nothing, to my knowledge, in the enabling bill, the bill that originally set up the highway users trust fund, that said we are going to collect a tax from you, however we are only going to give it back if you comply under this condition or that one, which may be a mandatory helmet law. The money is sup-

posed to go back to the States for construction. As it is now, under the mandatory section of ISTEA that did pass—and we are trying to get repealed—they simply do not have that option. It is simply a Federal black-mail of the State governments.

Now, we can stand, I guess, here all day and hear some of the horror stories, the public burden theory, who was injured, who was not, and we should have mandatory laws dealing with them about their recreation. But I would point out that the Federal Government simply cannot get involved in every form of behavior in which there is some risk. Melanoma is a skin cancer from sunbathing that kills more people than motorcycle accidents, yet we do not outlaw sunbathing or require they have certain kinds of Sun screen on, or tell them we will deny some funding under Medicaid or Medicare if they do not.

Swimming and diving accidents cause more quadriplegics each year than motorcycling, yet we have not outlawed swimming and diving. I think it gets beyond ridiculous when we tell States that we are going to require certain things that take away fundamental rights and deny them money that they have every right to if they do not comply with what we think they should be doing with their recreation in private states.

With that, I yield the floor, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have here a document from the Colorado Department of Transportation, University of Colorado, Health Sciences Center. It is a news release dated February 15, 1994. And it says here, "In the past three years—1991–93—134 motorcyclists have been killed in traffic crashes in Colorado. Ninety-six of the victims—72 percent—were not wearing helmets." So whatever is happening in Colorado, apparently it is not encouraging the use of helmets very much, as of the date of this, anyway. "Young riders are overly represented in the motorcycle fatality figures. Sixteen to 20-years old represent about 4 percent of the licensed motorcyclists in the state, yet during the past three years they have accounted for 15 percent of the deaths. Twenty of the motorcyclists killed—1991–93—were aged 16 to 20."

And then a quote from Dr. Steve Lowenstein, associate director of the University of Colorado Health Sciences Center.

Motorcycle crashes almost always have dire consequences.

In 1991 and in 1992, there were 3,668 crashes involving motorcycles in Colorado. Of those, 80 percent resulted in either the death or injury to the motorcycle rider. Helmets could have prevented many of those injuries, saving taxpayers millions of dollars in health care costs.

And then it goes on to point out in 1991 and in 1992, just 2 years, 2,824 motorcyclists were injured in crashes in

Colorado with about 600 of those riders suffering traumatic brain injuries. The 1993 injury data was not yet available.

Studies have documented that unhelmeted motorcycle riders sustain serious to critical head injuries three to five times more often than helmeted riders.

So I do not think this should be an argument about States rights or the Federal Government imposing demands, requirements. We are dealing here with human beings, human beings all across our country. And these young people or those who are not so young could have been maintained in far greater health and prevented terrible injuries that could have been prevented with the presence of helmets. And we should do everything we can to encourage helmet use. I think we should do that. So, Mr. President, I would very much hope that this amendment would not be approved.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I will ask unanimous consent to have printed in the RECORD a letter from the Colorado Department of Transportation that lists the three highest priorities for the Colorado Department of Transportation, one being the repeal of the mandatory section of ISTEA which the Snowe amendment does. I would like to point out again for my friends who are watching this debate in their offices on television, this is not a question of whether you should or should not, as my colleague implies.

It is a question of who makes the decision, whether it should be done in the U.S. Senate or whether it should be done at the State level.

There also is no question that we are getting sidetracked a little bit, because it seems to me that his statements imply that somehow helmets prevent accidents. They do not. They do not prevent accidents. They may prevent some deaths, but clearly we have a number of studies also that say rider education training prevents more.

So somewhere along the line, we have to define what it is we are talking about, and we are not talking about whether you should or should not, we are talking about who makes the decision.

I do not want to monopolize the time. I see my colleague from South Dakota on the floor, so I yield the floor.

Mr. PRESSLER. If my friend will yield.

Mr. CAMPBELL. If the Senator can speak on his own time.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would like to discuss briefly the important issue of motorcycle safety. I have been a motorcyclist for many years. I had a motorcycle when I was a second lieutenant in the Army, and have ridden many times over the years. In fact, I am the owner of a Harley-Davidson Heritage Softail Classic. I enjoy riding

it on the weekends when I am home in South Dakota.

While much debate has focused on the safety of motorcycle helmets, I do not want us to overlook another very important issue: motorcycle rider training. In my view, proper motorcycle training is even more critical to safety.

To update my license, I recently completed one of the motorcycle rider training courses endorsed by the National Motorcycle Safety Foundation. This 2½-day course—which took place Friday evening, and all day Saturday and Sunday—consisted of both classroom and hands-on instruction. It is a very rigorous course designed to teach even a beginner how to handle a motorcycle safely. I must say, I learned a lot of things about motorcycles that I did not know, and about safety.

Mr. President, according to statistics, about 62 percent of all the accidents involving motorcycles involve some sort of use of alcohol. I also want to point out the accident rate is very low in those States where motorcyclists have completed motorcycle safety courses. That is because the training courses strongly emphasize safety. Congress should emphasize safety education too.

In South Dakota, motorcyclists are urged to take rider training courses. I think that is a very important. Across the Nation, if we had more people taking motorcycle training courses, we would have more skilled riders. In my judgment, Congress can best promote safety by encouraging motorcyclists to enroll in motorcycle rider training courses.

As many of my colleagues know, the Sturgis motorcycle rally is held in my home State every summer. We have thousands of motorcyclists coming to South Dakota for this annual event. Some wear helmets and some do not. We do not have a helmet mandate. It is a matter of individual choice.

So I join with my friend from Colorado in the remarks that he has made, and I hope to soon ride my new Harley-Davidson Softail with him.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, the Senator from South Dakota added an element that has not been discussed, and that is the financial implications.

I point out—he probably already knows this—according to the South Dakota Tourism Council, motorcyclists put \$57 million a year into the South Dakota economy. Three years ago, a study was done by the town of Sturgis that he mentioned, at which about 150,000 to 200,000 people show up every summer for a big celebration. The Chamber of Commerce did a study of the people that were there 3 years ago, and they asked the people that came to South Dakota if they would come back to South Dakota to Sturgis if the State of South Dakota had a mandatory helmet law.

I do not have the exact statistics, but the number was very close to 50 percent said they would not come back to South Dakota if they passed a mandatory helmet law.

There are a lot of other elements to the financial picture, too. My friend from Rhode Island mentioned California—he mentioned that several times—and the reduction of deaths after helmets were introduced. What he failed to mention was that it was also at the same time that the same training that my colleague from South Dakota went through was implemented and expanded in California. It is one of the leading States for motorcycle training. So deaths also went down because of the training.

In addition to that, he also failed to mention in the 3-year period of time, registrations of new motorcycles in California dropped by 50 percent. There were simply fewer people riding fewer miles, so that also would have an impact on the injuries and deaths. I point that out because it is something that has not been discussed in this whole debate about choice. I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I just want to make a couple of additional points. I think a lot of the debate has centered on many of the issues that also were raised yesterday and are important to reiterate. But I think it is important since we are talking about the issue of safety, in terms of the statistics that have been given with respect to motorcycle safety.

According to the National Highway Traffic Safety Administration, in 1993, the motorcyclist fatality rate per registered vehicle has decreased by more than 50 percent since 1966. Senator PRESSLER mentioned, and Senator CAMPBELL, who has taken the rider education course, how effective and valuable it is, and that is why the States have decided unilaterally, without any coercion by the Federal Government, to establish those programs because they know it is essential to reducing fatalities and accidents on the road.

I also would like, as I did yesterday, because I do think it is critical, since the chairman is from the State of Rhode Island, to read part of a statement that was given by a State senator before his committee back in March. He says in his statement that:

In a year when unfunded mandates are a target of Federal legislation, it may be said that section 153 is an unfunded suggestion.

Section 153 also has a negative economic impact on the State of Rhode Island. The Federal Highway Administration has stated that every \$1 billion in highway construction monies creates 60,000 jobs. Although the funding is not being rescinded, the transfer of funds will result in the loss of approximately 40 construction jobs. These are difficult economic times, and Rhode Island has been hit hard by defense cutbacks, as well as national recession. If each job paid \$30,000, the impact on the Rhode Island economy could be greater than \$1.2 million.

The State senator goes on to talk about how there has been a dramatic reduction in fatalities and accidents in Rhode Island. He said:

... the number of deaths related to motorcycle accidents have declined significantly in proportion to the number of motorcycle riders on the road. In 1976, the last year that the motorcycle helmet law was in effect, there was more than 1 death per every thousand riders. In 1994, there was less than .5 deaths per thousand riders. . . .

In 1993, the number of fatalities per 10,000 registrations was lower in Rhode Island than in many States with motorcycle helmet laws. Massachusetts, which applied strict helmet wearing standards for motorcycle riders, has a fatality rate a full point higher than Rhode Island. . . .

Much of the success can be attributed to motorcycle rider education programs, which were first implemented back in 1980. . . .

Furthermore, Rhode Island also had the second lowest rate of all motorcycle accidents per 10,000 riders, behind only Oregon, which has a helmet law in place.

So I think it goes to show that the experiences in various States that have been through the rider education program in making a difference and having an impact on highway safety with respect to motorcycle riding.

I also would like to read a paragraph from the Bellevue News Democrat, in Illinois, from September 14 titled "Independent of Blackmail, Summed Up the Issue":

If the Federal Government is so hot on motorcyclists wearing helmets, why doesn't it adopt a national policy? Because it realizes this is the type of decision that rightfully belongs to the individual States, as long as the decision is the one that the Federal bureaucrats want, that is.

I think that appropriately sums up the problem we have here today with these kinds of penalties. It will not end here. It will continue, somehow thinking that we know more than the States in terms of what is occurring on their highways.

I also will mention that the States have debated these issues at great length. There were 109 bills introduced on helmet laws and zero adopted, since ISTEA penalties became effective—109 different bills. So it was adequately debated in the States. They will determine their own wisdom whether or not they should adopt a helmet law. That is where that decision belongs.

I ask unanimous consent to add Senator GREGG from New Hampshire, Senator WELLSTONE from Minnesota, and Senator BROWN from Colorado as cosponsors of my amendment, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. At the proper time, I will ask to table the amendment.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent to cosponsor the Snowe-Campbell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we have heard a lot of debate. I think we are pretty close to a vote. I do not think there is anybody on this floor who is not worried about highway safety, or about deaths of motorcycle riders from head injuries. But that is not the issue. The issue we are deciding here is, who should make these decisions? Should it be the U.S. Federal Government by way of the U.S. Congress that should decide whether people should wear helmets? Or should it be State legislatures, the Governor, and the people in their own jurisdiction?

I think the time has come, Mr. President, where it is important to gain public confidence in Government. I think a lot of people today feel alienated from Government. They feel Government is too distant, too remote, maybe arrogant and heavyhanded. I do not think there is much doubt about that. That is a more prevalent feeling in America today than in the last 10 to 15 years.

Why has that happened? There are a lot of reasons. One reason is because the world is much more complex. The cold war is over, which caused a certain anxiety in this country. A lot of people are concerned about their jobs, and there are a whole host of reasons why people tend to be a little bit alienated from and inclined not to believe their Government is doing what should be done.

This amendment is one opportunity for us to address a small part of that. We can give the decision making ability on helmets to the States. Let the people decide for themselves whether they want to live free or die. Let people decide whether they want to wear a helmet. Let people decide, according to the State legislatures, what they want to do. They will debate this issue and come to a reasonable conclusion. Some of us may not agree with that conclusion, and some of us may agree with that conclusion. Different States will reach different conclusions. But at least the people at home in the States we represent will be a little closer to the decision that is made.

We are not going to solve all of our country's problems today—not even a large portion of our country's problems. We have to take each step at a time. Today we are faced with a very small step, but important step. Let people in our own States decide for themselves whether there should be a helmet law. It is that simple.

The issue is not whether we are concerned about safety on the highways. That is not the issue. The issue is not whether—with all due respect to my good friend from Colorado—there is a greater incidence of bike fatalities

with persons who do not wear helmets compared with those who do. We should not be debating that issue today. The issue is: Who should decide, the Congress or the States? I believe it is an issue for the States themselves to decide.

I am glad the Senator from Maine is offering this amendment. I think it is an opportunity for people in our States to get a little closer to the decisions that are made, and maybe in a small way help restore a little bit of confidence they have now in Government generally.

I urge the Senate to adopt this amendment.

Mr. CAMPBELL. Mr. President, I thank the Senator from Montana. He enjoys great respect in this body and is looked to by many of the Members for his leadership. I think he has spoken in very clear terms on what this debate is all about. It is really a State rights issue. An implication has been made that if we repeal this mandatory section of ISTEA, there is going to be a pell-mell rush by States to repeal whatever they have in place now. Some States have helmet laws for everyone; some have it for 18 and under; some have it for under 1 year of experience. It is a hodgepodge of things now. Very clearly, 25 States do not have full compliance. I do not see them changing.

I think that in a number of States, they have dealt with this over and over, and they simply see this as a Federal blackmail system, and they are not going to give up. I can tell my colleagues on the other side of this issue that I do not intend to give up, and I am sure Senator SNOWE will not. The people who believe in States rights and the 10th amendment will not give up.

We talked almost 3 hours on this issue yesterday, and another 2 hours today. I say to my friend, the Senator from Rhode Island, that I am willing to stay here all night, and I am sure others are, too. I would like to ask the Senator from Rhode Island if he will consider some kind of a time agreement on which we can end this debate and have a vote.

Mr. CHAFEE. We are ready to vote now. If this amendment is adopted, it is absolutely clear that the States, just as they did in the period of 1976, will repeal the mandatory helmet laws they have on the books. That is the next objective of the motorcycle association. They will be on every legislator's doorstep pressuring, demanding, and the result will be that the States that have it will repeal their helmet laws. And the result of that will be increased deaths on our highways from motorcyclists not wearing helmets, not having helmets. I think it is a very unfortunate step.

If the Senator is through speaking, I will move to table.

Ms. SNOWE. Mr. President, first, I wanted to ask unanimous consent to include somebody as a cosponsor.

Mr. CHAFEE. That is fine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator COHEN of Maine and Senator THOMAS of Wyoming as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I am pleased to join my colleagues in sponsoring an amendment to eliminate the penalties on States that do not require the use of motorcycle helmets. I do not support efforts to force States to institute helmet laws, particularly States like Minnesota that already have effective motorcycle safety education programs.

I would have preferred to join in an alternative amendment that would have repealed current requirements that States enact helmet safety laws and replaced it with a requirement that States enact helmet safety education programs. However, that alternative amendment, which had been prepared by one of my colleagues, was not actually offered. I am therefore supporting the amendment before us, and as I pointed out, Minnesota does have a motorcycle safety education program.

Mr. President, Minnesota had a mandatory helmet law for 10 years—1968–1977. Proponents in favor of this law stated, “A mandatory helmet law will dramatically reduce motorcycle fatalities.” During the 10-year period Minnesota had a mandatory helmet law, fatalities did not go down per 10,000 registered vehicles. In fact, fatalities continued to increase almost every year.

Mr. President, Minnesota has not had a mandatory helmet law for 10 years. Our 1993 fatality rate plummeted an incredible 72 percent in spite of doubling the number of licensed motorcyclists. Since the inception of Minnesota's Rider Education and Public Awareness programs, motorcycle fatalities have been reduced 54 percent.

Mr. President, the Minnesota legislative body has analyzed and debated the helmet law issue many times in the 18 years since the helmet law was repealed. Legislators have repeatedly concluded; Minnesota does not need a mandatory helmet law.

Mr. CHAFEE. I now move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 36, nays 64, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—36

Akaka	Bond	Bradley
Bingaman	Boxer	Bumpers

Byrd	Harkin	Lieberman
Chafee	Hatfield	Mikulski
DeWine	Heflin	Moynihan
Dodd	Hollings	Murray
Faircloth	Inouye	Pell
Feinstein	Johnston	Pryor
Ford	Kennedy	Reid
Frist	Kerrey	Rockefeller
Glenn	Lautenberg	Sarbanes
Gorton	Levin	Simon

NAYS—64

Abraham	Feingold	Moseley-Braun
Ashcroft	Graham	Murkowski
Baucus	Gramm	Nickles
Bennett	Grams	Nunn
Biden	Grassley	Packwood
Breaux	Gregg	Pressler
Brown	Hatch	Robb
Bryan	Helms	Roth
Burns	Hutchison	Santorum
Campbell	Inhofe	Shelby
Coats	Jeffords	Simpson
Cochran	Kassebaum	Smith
Cohen	Kempthorne	Snowe
Conrad	Kerry	Specter
Coverdell	Kohl	Stevens
Craig	Kyl	Thomas
D'Amato	Leahy	Thompson
Daschle	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	Wellstone
Dorgan	McCain	
Exon	McConnell	

So the motion to lay on the table the amendment (No. 1442) was rejected.

AMENDMENT NO. 1443 TO AMENDMENT NO. 1442

(Purpose: To limit the repeal to apply only to States that assume the Federal cost of providing medical care to treat an injury attributable to a person's failure to wear a helmet while riding a motorcycle)

Mr. CHAFEE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mrs. HUTCHISON, proposes an amendment numbered 1443 to amendment No. 1442.

Before the period at the end of the amendment insert the following: "and inserting 'a law described in subsection (a)(1) (except a State that by law assumes any Federal cost incurred in providing medical care to treat an injury to a person in a motorcycle accident, to the extent that the injury is attributable to that person's failure to wear a motorcycle helmet) and'".

Mr. CHAFEE. Mr. President, let me explain this amendment, if I might.

This is an amendment to gratify the hearts of all the believers in strong States rights and get the Federal Government off our backs and out of things.

This amendment says that the current law involving the dedication of certain funds for highway funds for safety and training will go into effect unless that State passes—and seatbelts and motorcycle helmets will be required—unless that State passes a law saying that none of the medical care to treat an injury to a person in a motorcycle accident, to the extent that the injury is attributable to that person's failure to wear a helmet, no Federal funds will be used to pay for that health care.

In other words, what we are saying, and I said right along here on the floor, is that the Federal Government should

not be caught with the cost if the State does not want to mandate motorcycle helmets. Other people say it ought to be left to the States. That is fine. But let us not have the Federal Government caught with the cost. So this means that the Federal share will not be payable if a State does not enact such a helmet law.

It seems to me that it is a very fair thing. We are saying if we pay the piper, we ought to have some say. But people do not want that. They do not want the Federal Government to have any say requiring motorcycle helmets. So we say, OK, you do what you want, but we, the Federal Government, will not pay our portion of the Medicaid, principally, and it will apply to Medicare likewise.

So, Mr. President, I think it is a good amendment. The Senator from Texas has been active in this. I commend her for it.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am a cosponsor of this amendment. I voted not to table the Snowe-Campbell amendment because I do believe in States rights. But I also have a concern about the States lifting this helmet law and then expecting the Federal Government, through Medicaid or through other public grants, to pay for the cost of their lifting. I am a States righter. I think this should be a State issue. But I also think that with the right comes the responsibility.

So, if the States decide within their rights to lift the laws requiring the use of helmets on motorcycles, I then think it is incumbent on the States to take the responsibility if the person does not have private health insurance.

The statistics show that 64 percent of the inpatient charges for motorcycle-related accidents are provided for by private health insurance. But that leaves 19 percent for public, and 17 percent from other sources, including Medicaid.

So you can see that there is a large percentage of these injuries that could be publicly paid for. I think people do have the right to enact State laws that govern how people on highways perform and how they protect themselves and what kind of safety issues you should have. I am a believer in States rights, and I also think with that right goes responsibility.

So I am cosponsoring the amendment, and I appreciate the work that everyone has done on this issue. I thought this might be acceptable to both sides. But I think maybe it is not. I would like to reserve a little time at the end of the debate to finish in closing.

Thank you, Mr. President.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. CAMPBELL. Mr. President, before I make any comments, I would like to make a parliamentary inquiry. If the Hutchison amendment is adopted, then is this further subjected to a second-degree? Does this become a first-degree?

The PRESIDING OFFICER. The Snowe amendment, as amended, if this were to prevail, would then be open to further amendment.

Mr. CAMPBELL. Further question: Are we to assume that it would then be open to further amendments dealing with Medicare or Medicaid?

The PRESIDING OFFICER. The Senator is advised that the relevancy of further amendments would be determined by the Chair on a case-by-case basis.

Mr. CAMPBELL. I thank the Chair.

Mr. President, I tell you, with all deference to my friend and colleague, Senator HUTCHISON, for whom I have great admiration and respect, I think, very frankly, this is a terrible amendment.

First of all, if we are trying to deal with helmet use, we do not want to fool around with the money that goes through our Medicare system to States. I think it is a real mistake to open up that issue because we would have to have a whole bunch of amendments dealing with that. I can tell you that I am not a constitutional attorney, but I think when you discriminate against one class of people, when you tell them that they will be denied funding under these programs because they do not wear helmets, but they will not be denied the same money if they get injured through any other kind of pursuits. I think in the courts it would be fairly unconstitutional. I look forward to finding that out, if this amendment does pass.

Second, I do not know where it would leave the 25 States that are not in compliance now. Are we going to tell millions, if not hundreds of millions of Americans, in those 25 States that we are going to add another burden and we refuse to grant them some kind of Federal help under these services if they do not comply with the mandatory helmets under ISTEA?

So I just tell you, I think it is a terrible mistake, and opens up a can of worms that could be amended further and further dealing with all kinds of recreational pursuits.

I hope that my colleagues will reject it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I would like to speak to this amendment.

I would be in opposition to the amendment, it seems to me, for these reasons, unless it can be clarified: If a motorcyclist were simply stopped at a light and a car made an illegal turn or in some other manner struck him, or her, as the case may be, then I understand this amendment would apply. Would that be correct?

Mrs. HUTCHISON. No, it is my understanding of the amendment, if the injury is attributable to the person's failure to wear the motorcycle helmet.

Mr. WARNER. Suppose they did not have a helmet on. They are standing there motionless and a car violated some law and struck the person.

Mrs. HUTCHISON. I think it would be very easy to determine if the person was injured by not having a helmet on or not.

Mr. WARNER. Well, they might go off the bicycle and, indeed, suffer a head injury. That person then would fall within the statute?

Mrs. HUTCHISON. If a helmet would have prevented the injury, absolutely, and that is the purpose of helmet laws.

Mr. WARNER. Even though the cyclist is totally innocent of malfeasance or negligence?

Mrs. HUTCHISON. The reason that some States do have helmet laws—and this is, of course, I believe, a State issue—is because it is a protection. Whether you are hit or whether you fall or whether you are thrown from a motorcycle, the purpose is to try to keep down the injuries because you do not have the protections of a car. So regardless of fault, if you are injured because you did not have a helmet on, yes, you would fall under this amendment.

Mr. WARNER. Now, if the injuries were a combination of head injuries and, say, torso or limb injuries, you could get the Federal subsidization through Medicare or Medicaid for the injuries other than the head injuries, would that be correct?

Mrs. HUTCHISON. Yes, I think so. We are talking about the States taking the responsibility for not having a helmet law for what might happen for people who do not use them.

Mr. WARNER. So a cyclist could receive compensation, Federal compensation for any injury other than a head injury?

Mrs. HUTCHISON. Yes, I would say so.

Mr. WARNER. Mr. President, I would say to my two good friends here, it seems to me we had what I would characterize as an honest, fair debate on the underlying amendment, and with some reluctance, because I have always tried to myself be concerned about the expenditures of the Federal taxpayers for these types of accidents, I support the prevailing side on this amendment. I do so because it seems to me this is a clear question of States rights to this Senator, and I find that on the other votes on this bill, where I stood toe to toe to try and protect the Federal speed limit and stood toe to toe to protect the requirement to wear seatbelts, even though I am a strong States rights person, in this instance it is different.

Why is it different for this Senator? Because in the case of speed limits and seatbelts, I find there is a direct correlation to other drivers of automobiles, because they could be injured

innocently as a consequence of excessive speed by another driver or that driver in another vehicle not wearing a seatbelt and thereby losing some control over the vehicle and causing injury to an innocent person.

We lost on that speed limit. But it seems to me this is a case where we let the States decide, like let the riders decide to wear or not to wear a helmet. And therefore I find the amendment, in my judgment, begins to open up a series of legislative moves in an attempt to undermine the underlying amendment when we had a perfectly fair and open fight and discussion and debate on the underlying amendment.

Therefore, I would have to associate myself with those who will be in opposition, I regret to say to my distinguished chairman. We are both chairmen. He is the chairman of the committee. I am the chairman of the subcommittee. But at this point, he is in the chair.

Mr. CHAFEE. Mr. President, throughout the discussion yesterday on the amendment of the Senator from New Hampshire and the amendment today of the Senator from Maine, there was great accent on freedom, freedom to choose—we should respect the State legislatures in that they will do the right thing and that the Federal Government should get out of it. And the Federal Government was chastised in many of the remarks made here as a big, overpowering force; that we should do everything to avoid bringing the Government closer to the people.

That was the argument. All right. But the argument we were making on the other side was that the Federal Government has to pay the bill frequently through Medicare and Medicaid. In every instance in Medicaid, the Federal Government is paying more than 50 percent. So that argument was blown away by a very, very heavy vote.

Now what we are saying is, OK, let the States decide, let the States forgo the so-called mandatory helmet bill, but if they do, then the Federal Government will not step in and pay the medical costs of an individual injured as a result of not wearing a helmet.

So this is a very, very simple amendment. I should think it would thoroughly satisfy the States righters because they get everything they want, and indeed they are avoiding the problem of the big Federal Government coming in and paying some of the bills, if that presents a problem.

So all we are saying is that where there is an injury attributable to that person's failure to wear a helmet, and the State does not have a helmet law, the Federal Government should not have to pay either Medicare or Medicaid. Let the States pay it. I think it is a very fair deal.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, this is a very simple amendment. It reminds me

of something a very famous journalist, H.L. Mencken, once said. He said for every complicated problem, if there is a simple solution, it is usually wrong. This is a very simple solution, but I think it raises a lot of important questions. I would like to ask if the Senator from Texas might respond to some of these questions.

As I understand it, this amendment deals with the treatment of States that do not have a helmet law. For those States, that do not have a helmet law, that State could not use Federal Medicaid funds to pay for unhelmeted riders injured in motorcycle accidents. Is that correct?

Mrs. HUTCHISON. No. It goes toward the State that decides to make that decision to also take the responsibility for injuries caused by making that decision.

Mr. BAUCUS. No, no. As I read the amendment, it says in the last words in the last few lines "to the extent that the injury is attributable to that person's failure to wear a motorcycle helmet."

Mrs. HUTCHISON. That is correct. But we are putting the responsibility on the State, if they decide not to have a helmet law.

Mr. BAUCUS. Let me ask another question. What happens if a person who is injured is not wearing a helmet and the physician then has a hard time determining the degree to which the injury the person suffers is attributable to not wearing a helmet, and then other injuries that would otherwise occur. Let us say it is a neck injury; let us say this person is thrown from the bike, for example, and falls on the pavement. It is partly a head injury; it is partly a shoulder injury; there may be another injury. So is the doctor then supposed to write out a form as to what percent of the cost is attributable to the head injury and what percent of the cost is attributable to the other injuries that occur?

Mrs. HUTCHISON. I think it would be very reasonable to do that actually. I think whether you have a head injury or do not have a head injury is easily ascertainable. And yes, I think you could devise a—

Mr. BAUCUS. Let us ask the next question. Let us say there is a superficial head injury, a cut, but the person goes into shock, and the hospital bills are very extensive but there appears to be just a superficial scrape to the head.

Now, which portion of the hospital bills would be paid and which portions not?

Mrs. HUTCHISON. I think a doctor is going to be able to easily discern what is caused by not wearing a helmet. I do not think that is going to be a big deal for a doctor.

Mr. BAUCUS. But it is true that, if this amendment were to pass, the hospitals, nurses, doctors, and other health care providers involved with this patient would have to go through a lot of hurdles in determining what portions of the injuries are attributable to not wearing a helmet. This

will require a lot of paperwork to document all this. Is that not correct?

Mrs. HUTCHISON. No. I think you are obviously making something that is not there because you do not think this is a good amendment, which is your right. But I think the issue here is, if a State wants to pass a law that says people do not have to wear motorcycle helmets, they have the right to do it. All we are saying is, they also have the responsibility to pay for it. I think that is fairly simple. I think it is fairly clear.

Mr. BAUCUS. Let us think about the additional paperwork required to meet the demands of this amendment. Paperwork for hospitals, doctors, and nurses.

Has the Senator made an assessment of how much more paperwork this would cause?

Mrs. HUTCHISON. The State has the option. This is not something we are forcing them to use. The States have the option. They can decide to not have a helmet law and take the responsibility for the injuries, or they can have a helmet law and try to prevent those injuries. It is just a matter of whether the Federal Government is going to pay for this State right. You know, I am very much for States rights. I am very much against unfunded mandates. But I think it is very important when you are dealing with the highways and safety on the highways, which we do with seatbelts and helmet laws, if States are going to take the responsibility to make the decision, which I think they have a right to do, I think they should have the responsibility to pay for it rather than send the bill to the Federal Government.

Mr. BAUCUS. I agree with that. As I read this amendment, it would apply to injuries that might occur due to lack of a helmet whether the motorcyclist was riding on the interstate highway or on private property.

I ask the Senator from Texas, there are a lot of wide open spaces in Texas, a lot of ranches. Would this apply to someone on a ranch in Texas who is out on his place trying to chase down a stray steer, not on any road? He falls off his bike on his own place and gets a head injury. Would this amendment apply to that person as well?

Mrs. HUTCHISON. The underlying—

Mr. BAUCUS. That is how I read it.

Mrs. HUTCHISON. I think it depends on what the State does. I think the State has a right to say that you need to wear a helmet on a highway but private property is exempt, or the State can also require it on private property. I doubt it would apply on private property. But that is a State right. And I would think that probably private property is exempt.

Mr. BAUCUS. Mr. President, I appreciate very much the Senator's responses. I think that, to be totally candid, this is an amendment which is well meaning and well intended. But has not been thought through enough. It

opens up horrendous difficulties. No. 1, it is an impossible burden to place on the doctor, nurse, or provider to determine the portion of total injuries, which is often very difficult to do.

For instance, there may be a massive head injury and not much other injury to the body or maybe massive injuries to other parts of the body. It may be a head injury, and it may be a head injury that is causing the huge medical bills or it may not. It is very difficult for a doctor or nurse to determine and answer that question.

Second, Mr. President, it is the incredible paperwork that it will cause. This is a horrendously complex issue. I think the answer that the Senator from Texas said, "It is up to the States," the way this is written, "to the extent the injury is attributable to that person's failing to wear a motorcycle helmet," does not seem to give a lot of discretion to the States.

If it gives discretion to the States, the Senator is making our argument. This is States rights. Let us give discretion to the States and give discretion for what makes sense for them in their own States.

And to the private property point. As I read this amendment, it does not appear to give the State discretion to limit it to injury to persons without a helmet on public roads. As I read this amendment, it says, "To the extent that the injury is attributable to that person's failure to wear a motorcycle helmet." And that is just another problem I see with this amendment. But if we are going to go down this road and limit Federal dollars, we might as well say, "OK, States, why not? We are going to limit your Federal dollars if you don't pass handgun legislation outlawing the use of handguns." We all know that handguns cause some deaths in this country. Many emergency rooms in hospitals around this country see patients because of gunshot wounds. Does the Senator from Texas think we should apply the same logic to legislation of that kind?

What about passive smoke? Some people think that more people get cancer because they breathe passive smoke. Are we to say there should be no public funds to States if they did not pass legislation restricting public accommodations for passive smoke?

There is no end to this. I know this is a well-meaning amendment, but I think it is very complex. I think it would be wise for us, Mr. President, to summarily vote it down.

Mr. CHAFEE. Mr. President, there is an old technique in debating and arguing, if you will, to get into analogies. And pretty soon you are on the analogy instead of the basic point. In other words, suddenly we are on handguns here. There is no suggestion of handguns in this legislation. This is very simple.

And I commend the Senator from Texas and join her as a cosponsor, as has been pointed out. What she is saying is, if everybody wants the State to

have all its rights, and they do not want to subscribe to a Federal law which says you have got to wear a motorcycle helmet, fine. That is the ultimate of States rights. What we voted on here today, they do not want any of those Federal people interfering.

What she is saying is, if we cannot have any control over what takes place, why should we have to pay the bill, any portion of the bill? And that is all it does. And you can get into all kinds of arguments about, "Oh, who is going to decide?" We have decisions made all the time in connection with health care. There is no problem there. The whole Medicare system is based upon a doctor making a decision, categorizing the extent of the illness. That is the way all the charges are done. This is not anything unique. It is very, very common. It is the same with Medicaid and the eligibility requirements for Medicaid. They are all there. And so I do not think we want to get bogged down.

If he is not wearing a helmet in a stationary position getting injured, does it count? Of course, it counts, because he ought to have been wearing a helmet under the law. If the State does not have that law, OK, fine. And there is no requirement that they have the law. And there is no requirement for the Federal Government to pay anything either.

So, Mr. President, I think this is—I thought we might get this amendment accepted. I thought every States righter would think this is great. And perhaps they will. Perhaps the distinguished Senators from Maine and Colorado will say, "This is good. This is what we like." I look for a favorable response.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Ms. SNOWE. Thank you, Mr. President. Well, I do not blame the distinguished chairman for not wanting to get into the details of this amendment because once you do and understand the implications and the impact, it certainly would be unprecedented from a Federal standpoint.

I ask the Senator from Texas, why stop here? Why just stop with those who do not wear helmets? Why do we not deny individuals who are on Medicaid any medical care if they smoke and end up getting cancer? Why do we not deny people who are on Medicaid and do not engage in exercise, good diet, and do not get preventive medical checkups on an annual basis? Why do we not deny them medical care?

I mean, we can go on with endless possibilities. Why do we not deny those who ski and do not wear a helmet when they get injured? Why do we not deny them medical care? How about those who go rollerblading? If they do not wear a helmet, do we deny them medical care?

I think the Senator from Virginia raised a very important point. If somebody is riding a motorcycle and does not happen to be wearing a helmet because that person is abiding by the State law because they are not required to wear a helmet and they get broadsided by somebody who might be intoxicated or driving recklessly, that person who is driving recklessly or intoxicated would be eligible for Medicaid if they were in that category.

But the person who was a law-abiding citizen riding the motorcycle and gets broadsided by that individual who is driving recklessly would be denied medical care. I do not think that is the approach we want to adopt in Congress, sort of a two- and three-tiered system as to who is going to be denied or who is going to have access to medical care.

I think, and I said before, when the Senator from Rhode Island raised the issue about, well, this is going to add to our costs, I would ask the Senator, why not offer legislation that denies medical care for anything we think is going to affect health care costs to the Federal Government? Why are we stopping with just wearing helmets? I ask either the Senator from Texas or the Senator from Rhode Island that question. What about horseback riding? Rodeos?

Mr. CHAFEE. Can I give an answer to that?

Ms. SNOWE. I will be glad to yield for that purpose.

Mr. CHAFEE. The measure before us is a bill dealing with helmets, motorcycle helmets and seatbelts. That is the legislation. We do not have legislation before us dealing with skiers or with rollerbladers or with horseback riders.

So what the Senator from Maine has done, if her amendment is adopted—by the way, her amendment has not been adopted but what she is striving to do is to change the law. The current law says that a State must pass legislation to mandate the use of motorcycle helmets and seatbelts, except if they choose not to, then they suffer certain penalties. You are the one who brought up the legislation, not us.

Ms. SNOWE. This Senator, in hearing the Senator's answer to the question, then assumes the Senator supports denying all these categories for access to medical care on other pieces of legislation.

Mr. CHAFEE. No, I have not said anything to that effect.

Ms. SNOWE. That is the question I am asking because this is the kind of precedent that this amendment is establishing. What is the point?

Mr. CHAFEE. We will worry about precedents later on. The matter before us is motorcycle helmets.

Ms. SNOWE. So the Senator is not prepared—

Mr. CHAFEE. The Senator from Maine seeks to change that, and I am saying if you change that and are unsuccessful, why should we have to pay the bill?

Ms. SNOWE. I reclaim my time.

Mr. CHAFEE. We are not saying anything about denying hospital care or medical coverage. States can do that.

Ms. SNOWE. The States can do that at great cost, as the Senator well recognizes, and it was the Senator from Rhode Island who raised the question of medical costs. So let us discuss the issue of medical costs. I think it is a very relevant issue, and if it is right for motorcycle riders, then it should be right for everybody else in all of these categories, if we are talking about medical costs. It was the Senator who raised that issue.

Mr. CAMPBELL. Will the Senator yield? Is it the Senator's understanding, as it is mine, if this amendment is adopted, it then becomes amendable?

Ms. SNOWE. Absolutely.

Mr. CAMPBELL. What is to stop amending it saying anyone not wearing seatbelts is denied Medicaid or what is to stop amending it to say we do away with Medicaid altogether, or something of that nature?

Ms. SNOWE. That is correct. There would be endless possibilities in terms of what could be offered here to deny medical care to people in various categories, in various forms of personal behavior.

Mr. CAMPBELL. A further question. The Senator mentioned a drunken driver. Let me see if I have the scenario right and maybe the Senator can inform me.

Let us say there is a man driving down the road and is dead drunk and runs over 10 people. One he happens to run over is a motorcyclist parked by a stop sign who does not have a helmet on. The drivers are also injured in all these wrecks. As I understand the Hutchison amendment, the drunk that runs over the 10 people is going to get Medicaid, if he needs it, because he is injured, but the guy he ran over who was just sitting there will not because he does not have a helmet. Is that the way the Senator from Maine reads it, too?

Ms. SNOWE. That is the way I interpret this amendment.

Mr. CAMPBELL. In my opinion, this opens up Pandora's box of amendments we do not want to deal with. I have to tell you, as I understand the amendment of the Senator from Texas, it would deny Medicaid to people who are not wearing a helmet. I am going to prepare an amendment to hers, if it is adopted, that simply would require Medicaid for everybody who is riding with a helmet, if we are going to open up that Pandora's box. I yield the floor.

Ms. SNOWE. I thank the Senator for his comments, because I think his amendment would be very relevant under the rules of the Senate, and I think that it does, as the Senator from Colorado indicates with his amendment, open up all kinds of possibilities. This is unprecedented. We will start determining who will have access to medical care depending on their personal or

recreational choices. That is the decision we will be making with this amendment.

I also suggest it is a strange form of States rights that almost does not pass the straight-face test.

Mr. CAMPBELL. Will the Senator further yield? I know the Senator from Maine has a pretty considerable background of law. I do not. Does the Senator also see this as a singling out of one class of people that could question the constitutionality of the amendment?

Ms. SNOWE. I say to the Senator, I am not a lawyer, but I certainly think that would have a great impact. It certainly would, in my opinion, in terms of the impact it would have on a specific category of recipients, potential recipients if they are eligible for any of our medical programs in the Federal Government.

Mr. CAMPBELL. I thank the Senator.

Ms. SNOWE. But I would say, I mentioned earlier that it would be a very strange form of States rights. We are saying to the States, "You decide whether or not you want a helmet law." However, if somebody who is abiding by the fact that their State does not have a helmet law, so is not wearing a helmet and gets in an accident, regardless of whether or not it is his or her fault, they will be denied medical care; is that what we are really saying and want to say by adopting this amendment? I hope not, because I think you would all agree there are other areas that we could examine, as far as having a tremendous impact on medical care that adds to the cost year in and year out.

So I hope that we reject this amendment, because otherwise, as the Senator from Colorado, Senator CAMPBELL, has mentioned, there will be other amendments to address these very issues that come within the scope and relevance of the amendment that has been offered by the Senator from Texas, Senator HUTCHISON.

Mr. President, I ask for a recorded vote on the underlying amendment.

The PRESIDING OFFICER (Mr. GRAMS). The yeas and nays have already been ordered on the underlying first-degree amendment.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I have listened to this debate with interest, curiosity, and amazement, because what I hear is, "If you do that, I'm going to punish you. If you do that amendment, I'm going to punish you with other amendments."

This floor is wide open. You can make as many amendments as time will allow, and no one ought to be cowed or frightened by the prospect of another amendment that drags in some extraneous issue. We are now discussing whether or not these benefits apply universally and whether we will be able to take it away if someone stubs their toe in a bathtub.

The fact of the matter is that what these discussions are about did not get on the books willy-nilly because someone had it in for motorcycle riders or someone had it in for nonseatbelt users or someone had it in for speeders. These things developed because this was the safest way for our country to operate.

For those of us who are not regular motorcycle riders—I say regular. The first time I rode a motorcycle was when I was 17 years old, which was more than 20 years ago. I got a few pieces of gravel in my knee and my arm. My father talked to me, as only fathers and sons used to talk in those days; it was direct, no exceptions. He did not mind striking a blow for intelligence and maturity. I listened carefully. That was the end of my motorcycle career.

But the fact of the matter is that this is not a vendetta against motorcycle riders. What it is is a carefully thought out program to save us money—all of the American taxpayers. Motorcyclists, as a class, have more accidents and more costly accidents than do automobile riders. And, thusly, we are saying, hey, if you want us to make contributions, to pay into the pot for Medicaid, then please take some precautions. Even if you do not use a seatbelt in the car, you are protected by the frame and structure of the car, and now by airbags in almost every car. But you see it almost automatically—people buckle up. *Machismo* says: I do not buckle up; I ride free and easy. Well, that is up to the individual. I went through a story yesterday about my visit to a trauma center, which was an urban trauma center in a very poor, high-crime city, and the doctor in charge of the center said that the only thing that exceeds disastrous injuries from motorcycles are gunshot wounds. And we know that needs attention of and by itself.

But, in this case, what we are saying is that helmets ought to be used because it saves society money. Those who choose to run the risk, obviously, they are the ones who decide how much pain their families will have, how much anguish their loved ones will have; they are the ones who will decide that the risk is worth the ride. That is up to the individuals.

But I say, if you want to use Federal roads, then you ought to do the things that guarantee a modicum of safety. I think the Senator from Texas has come up with a brilliant idea, which says that if there are additional expenses involved as a result of your not taking appropriate precautions, then do not ask us, the Federal taxpayers, to pay the bill. That is standard in almost everything in life that we do. We are a Nation of laws. If you obey the laws and something happens, typically, it does not cost you anything, other than that which you pay in the normal array of taxes. But if you fail to obey the laws, if you want to jump out of an airplane in a parachute in the middle

of a city and you cause all kinds of disruption, today you are going to pay a price for it. If you choose to violate the rules for safe passage in the mountains or in the oceans and you require service from the Federal Government, you pay for it. We, the citizens and taxpayers, are not required to do that.

So when we talk about what it is that centers this focus on helmets, we have to ask ourselves: What was the mission of the law as it was originally developed? The mission was not to punish States. The mission was not to add expense to the operations of State or local government. The mission was to save lives. And yesterday, we heard a fairly astounding statement, which when thought about carefully, suggested something. The suggestion was that if we slow the cars enough on our highways, we would save lots and lots of lives. But that was implied, and that was, therefore, a calculated risk. So that if we increase the speed limit a little bit more and a few more people die, as they say in France, "*c'est la vie*"—that is life. That is the price you pay for more speed.

If one wanted to extend that argument, one could say that when this airline is scheduled to leave at 9:05 in the morning from Newark Airport, regardless of whether the skies are crowded or not, that plane takes off. It is the most ridiculous proposal anyone could conjure up. But it is the same as saying, well, sure, if you want to make things more efficient, you simply slow down the traffic, and the reverse of that—if you want to get someplace, then you may lose some lives. That argument hardly holds water when it comes to discussing a tragic result, whether it is a motorcycle rider or car rider or somebody falling down and getting hit by the car. It does not matter. The cost relates to lives. That is what we are discussing here—whether or not we are interested in saving lives, or whether the mission is to save the States dollars that do not want to comply with the rules.

We have had a vote and it was very clearly established that the majority here prefers that helmet laws be revoked. But I think that the proper response to that, having seen that overwhelming support, is that if more costs result from injuries that obtain from no helmets, and the Federal Government ought not to have to pay for that. If a State chooses to remove the requirements for helmets, then the State ought to pay for it. There ought not to be Medicaid for it. Private insurance is another thing. But there ought not to be public insurance for those States that violate sensible safety rules.

So I commend the Senator from Texas. I think she has an excellent idea. I rise as a cosponsor. I ask unanimous consent that I be included as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I hope our colleagues will see the wis-

dom of her recommendation and that we will respond to what is an attempt to remove the safety precautions and replace it with a "if you want to play, you pay" kind of thing. I think that is quite normal and I think that is quite acceptable.

I will close by saying that I do not think this opens up a Pandora's box or other things. If we want to discuss other things, we are going to discuss them, regardless of the outcome of this amendment.

I hope that this amendment is agreed to.

Mrs. HUTCHISON. Mr. President, I thank the Senator from New Jersey. I appreciate the fact that he wants to be added as a cosponsor of this amendment, because I think it is a good, sound amendment. There was one technical answer that I wanted to give to the Senator from Montana in his request for information, and that is, the underlying helmet law applies to public roads.

Private property is really not an issue here. It is a matter of what we do on public roads.

I was a member of the National Transportation Safety Board at one time. I am very safety conscious. There is no question about that. I would like to encourage people to wear helmets, because I know that makes a difference in safety.

Safety belts make a huge difference in injuries in car accidents. I think that is so well settled that the Senate showed overwhelmingly yesterday that they did not want to lift the safety belt requirement.

The issue of helmets is a closer call. I think it really is a States right issue. Yet, I do hope that the States will think very carefully before they enact a law that would do away with the helmet law, because I do think it is a safety issue.

We do not want to hamper the rights of States in this instance. In fact, the American College of Emergency Physicians also believes this is a good amendment, because they see the effects of the differences in injuries when a person does not have a seatbelt or is not wearing a helmet while riding a motorcycle.

When people choose to ride motorcycles, as my wonderful friend the Senator from Colorado does, and we are proud that he does—when a person chooses to do that, that person is choosing to ride a vehicle that does not have the same protections as an automobile. A person should have that right.

I also think that there is an issue of, if you are going to do that unprotected, without a helmet, which we know will not only save lives but have far fewer injuries, I think that there is a responsibility there.

I just think that if a State decides that it is going to do away with the helmet law on public roads, that State should also take responsibility. This is not hampering States rights, but it is

saying that when you have the right and you choose to exercise that right, you also take the responsibility for that action, rather than having the Federal Government do it.

I think it is a very simple issue. I think it is an issue of States rights and State responsibilities. I am a cosponsor of the amendment that would not allow the Senate to send costs to the States. I think this is just a reversal of the same treatment.

If the States decide they do not want to go with a national policy that has been set, they have the right to do it, but they should pay for the consequences of exercising that right. Thank you.

Mr. CHAFEE. Mr. President, I wonder if the Senator from Colorado would respond to a question. We are trying to get a time agreement here and wind this up. I was wondering if the Senator would agree to a certain length of time?

Mr. CAMPBELL. No, not without my colleague. I would like to retain my time.

Mr. President, the Senator from New Jersey is still here. Senator LAUTENBERG talked about missions and our mission here.

I can say that missions change, because when the 55-mile-an-hour speed limit was implemented, it was not to save lives. It was to save gasoline—everyone knows that—because of the energy crunch. Somehow the mission changed as people began to look at their relationship to speed and safety. Missions change.

I would like to point out what I guess in my old-fashioned way is still considered to be the original mission of this body, and that was to uphold the Constitution. As I read the 10th amendment—not having the background and a lot of the legal skills as some of my colleagues do—the 10th amendment still says: “The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively, or to the people.”

There is nothing here that says we will mandate helmet laws. Nothing says we will be punitive and deduct money that they paid in their gas tax if they do not comply with some kind of an arbitrary rule we set back here. It does not say anything like that. It says we will not take away the States’ rights to decide. That is the original mission. That is why we are here.

I think that the Hutchison amendment opens up a Pandora’s box of any further amendments. If her amendment passes, it can be amended. Is somebody going to offer an amendment that, if they do not have a helmet, we do away with their food stamps? Or we do away with their farm subsidies? If they are not wearing a helmet, they will not receive money under the crime bill? The list can be endless. That is why this amendment is a killer amendment.

I urge my colleagues to vote against the amendment or to table it when that motion is offered. I yield the floor.

Ms. SNOWE. Thank you, Mr. President. I appreciate the comments made by the Senator from Colorado, because I think some of the questions that have been raised with respect to the amendment offered by the Senator from Texas really does embark the Senate on a different course with respect to, for example, the Medicaid Program.

The Medicaid program is a State-Federal Program. States design their programs within the Federal guidelines. Do not underestimate for a moment that we will not be pursuing a different and an unprecedented approach with respect to our medical programs. Once we decide that behavior is going to dictate whether or not an individual has access to medical care costs, we have opened, as the Senator from Colorado said, Pandora’s box.

It will not stop here. I know the Senator from Rhode Island would not answer the question as to whether or not he would support other forms of social, personal, or recreational behavior as a determining factor for an individual eligible for our medical programs to receive those medical benefits.

I now would ask the Senator from Texas as to whether or not the Senator thinks that we should adopt a standard of behavior that will determine whether or not an individual should receive medical care in this country. I ask the Senator, does the Senator think that we should draw the line, for example, on what people do—whether they are skiing, skateboarding, rollerblading, smoking, improper diet, lack of exercise? We could go on in terms of the number of critical choices that are made as to how we will spend our money. And those people who are recipients of these programs could be denied based on this amendment. This is setting a precedent.

Does the Senator think that we should design our Medicaid or Medicare programs according to people’s personal and social and recreational behavior?

Mrs. HUTCHISON. Mr. President, in a way, we do that in many instances. I think it is well settled that the U.S. Congress has the right to make laws as they affect our public roads and highways. If a State gets Federal funding, then we have certain laws that we must comply with.

There are safety laws in the way we construct highways. Insurance companies do have standards that are adopted by States, very often, on who can get insurance and who cannot. I think we have to take everything on a case-by-case basis.

I certainly think the Federal Government has the right and has made laws that are contingent upon receiving—Federal funds are contingent on those laws for States to receive those Federal funds. I sort of messed that up, but basically there are standards that have been set.

I do not think it is out of line at all. I think we have a Federal law. We have set a Federal standard. We are giving

States the right to go against that standard, just like we did on the speed limit yesterday.

So I think we have just said if the States exercise the right, they take the responsibility.

Ms. SNOWE. Getting to specifics, I think it is important, because we are talking about medical costs.

We are saying if somebody does not wear a helmet and gets in an accident, regardless of whether or not it is that individual’s fault, they will not have access to medical care if they happen to be eligible for a Federal program.

Now, we know that smoking is a cost. Does the Senator think that if somebody who happens to be on the Medicaid or Medicare Program, smoking, and happens to get lung cancer, do we deny that individual medical care?

Mrs. HUTCHISON. Mr. President, I think the Senator from Maine is asking for a personal opinion when, in fact, there very easily could be Medicaid standards that say if you smoke, you do not get treatment. Now, whether I think that we should have those standards or not is really irrelevant here.

Ms. SNOWE. No, I think it is relevant. I reclaim my time. I think it is relevant because the Senator’s amendment is setting up drawing distinctions for the first time. I think it is very relevant.

Mrs. HUTCHISON. I think the Senator is doing what Senator CHAFEE mentioned earlier, and that is using a debate tactic. I think it is well within the rights of an insurance company or the Federal Government, under Medicaid, to set standards for when you will receive that care. Absolutely, it is within their rights.

Ms. SNOWE. We know its within their rights.

Mrs. HUTCHISON. We are saying in this instance we think the State should pick up the responsibility if they are going to exercise their right. It is very simple.

Ms. SNOWE. This is not a hypothetical amendment. It is reality. That is, what we are talking about is a very real possibility that will open a number of doors in terms of who will be eligible and who will be ineligible for medical care. We know the Federal Government has every right in the world and every prerogative to design the programs the way we see fit. But that is not the point.

Mrs. HUTCHISON. Well, it is the point. That is absolutely the point.

Ms. SNOWE. Let me have—it is my time.

The point is in terms of what is right. Now we are saying that, because somebody happens to be abiding by their State law—and my colleague calls it a States rights issue, and I find that a very interesting interpretation of States rights because it is no different than what we are trying to fight over the helmet law or even the seat-belt law. We are saying let the States determine it but do not penalize us with transportation funds.

So now the Senator's amendment is penalizing States in a different way. She is saying we are not going to give you medical care costs if somebody gets in an accident because you are not adopting that amendment. That is the bottom line of her amendment. Because now she is giving the States the choice, if you do not pass that helmet law, and if something happens to an individual abiding by the State law that does not require them to wear a helmet, they will not have access to medical costs. The Senator knows the State is going to have to pick up the tab, so it is an unfunded mandate and she is a cosponsor of the unfunded mandate bill—but this is an unfunded mandate.

The hospitals are not going to deny that care to that individual. The Senator would not suggest a 16- or 17-year-old on a motorcycle who gets in an accident is going to be denied medical care because they were abiding by the law of their State?

Mrs. HUTCHISON. Will the Senator yield?

Ms. SNOWE. I hope that is not the approach we are taking with this legislation because it opens up, I think, very incredible questions about the propriety of procedures in a policy from the Federal perspective.

Mrs. HUTCHISON addressed the Chair.

Ms. SNOWE. It is my time.

Mrs. HUTCHISON. I ask if the Senator will yield?

Ms. SNOWE. I will be glad to yield.

Mrs. HUTCHISON. I think the Senator is raising a red herring here because the issue is, if we are going to provide the service, we have the right to set the standards. If we are going to say the States can exercise their rights, we have a right to also give them the responsibility.

I am glad we are going toward eliminating unfunded mandates to the States, but I think if we are going to give States the rights to do these things, they are going to have to pick up the responsibility, coming the other way, just as we are giving them the right not to have unfunded mandates from the Federal Government.

Ms. SNOWE. To answer the Senator's statement, yes, we do have the right. But the question is, what is right? I do not think the Senator's approach is the right approach. I do not think it is appropriate for us to begin to determine in a number of different areas how we are going to provide that medical care because we decide on what is appropriate and what is inappropriate.

If we are going to do that, then I think it is only fair to look at a whole host of areas that have an impact on the cost to the Federal Government of medical care. That is what this amendment is suggesting. That is the door it is opening.

It is everybody's right to interpret how this amendment is going to be applied. It is not a hypothetical situation. It is very real. While the Senator

might think she is granting States the right to make those decisions, it is not any different than what we are trying to fight with this legislation. We are saying to the States, you ought to make those decisions. We have decided in our wisdom that something should be decided rightfully by the States. That was the vote we just had on my amendment, to allow the States to make those decisions, not to penalize them through transportation funds. But the Senator is coming through the back door and saying, all right, if you do not adopt this amendment then you are going to be denied medical care cost reimbursements by the Federal Government.

Yes, it is definitely going to be an unfunded mandate, but I think it raises some other very serious questions about exactly how far we are willing to go to begin to make those distinctions on medical care costs and who is going to have access.

Mr. CAMPBELL. Will the Senator yield?

Ms. SNOWE. I will be glad to yield to the Senator from Colorado.

Mr. CAMPBELL. The Senator from Texas referred several times to Federal funding.

Is it the belief of the Senator from Maine, as it is mine, that there is no funding here, that this money that is here comes from the taxpayers?

Ms. SNOWE. That is absolutely correct. The Senator raised that earlier in terms of the transportation funds.

Mr. CAMPBELL. That was the point I was going to make. Is it my colleague's belief, as it is mine, that people who pay into the highway users trust fund under the gasoline tax, whether it is Texas or Maine or Colorado or wherever, if they have the right to get that money back unfettered? They paid it in. Do they have a right to get it back without us putting a whole bunch of strings attached to it before they get their money back?

Ms. SNOWE. I say to the Senator, he is exactly correct. My colleague is exactly right. Providing strings and requirements to the money before it is returned to the States or otherwise, they do not really get it because they cannot use it for the purposes they require. It is only the purpose which the Federal Government, the Congress, requires, but not for what the States need.

Mr. CAMPBELL. I thank the Senator.

Ms. SNOWE. I hope, as I conclude my own remarks with respect to this issue, that we reject this amendment because, while some would say this is a red herring, it is not. We all too often find that we have amendments that have real implications. This certainly is one of them.

We are saying on the one hand the States have the right to make decisions about their helmet laws, but on the other hand, if you do and it is not the right decision, we are not going to allow eligible recipients to have access

to medical care if they abide by that law. It does not stop there.

Mr. LAUTENBERG addressed the Chair.

Ms. SNOWE. Does the Senator have a problem?

Mr. LAUTENBERG. I was appealing to the Chair for time. I thought the Senator was finished.

Ms. SNOWE. The fact of the matter is, we are going to be denying individuals medical care under this amendment. But it will not stop here. It will go on into other areas. As the Senator from Colorado has indicated, he will offer an amendment. There will be other amendments, there will be other legislation, and we will be continuing to draw those lines in terms of who will be able to get medical care.

It can go on and on, because there are a number of behaviors that people engage in that have implications to our medical costs. I cannot imagine we are saying now, if somebody is skiing or skateboarding or rollerblading, playing touch football, and has a head injury and is not wearing a helmet, and may be on Medicaid—that has implications, too.

But what we are doing is isolating a certain group and imposing a punishment on them because they are abiding by State law. So I hope we will reject the amendment that has been offered by the Senator from Texas, Senator HUTCHISON.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the occupant of the chair for giving me recognition.

I listened carefully to the Senators who are opposed to this amendment and I am struck by the response to what I think is a very carefully thought out, very specific amendment that addresses a problem that is going to be created.

What I heard was that the 10th amendment says that powers not relegated to the Federal Government are relegated to the States. What I heard is that, if this happens, "I promise you I will have amendment after amendment after amendment" that will kind of "make you pay" for supporting her amendment. I heard that this opens Pandora's box, that we are going to be discussing all kinds of things that relate to taking away people's benefits. I remind our distinguished friends that it has been the tradition in promoting safety in this country that you get incentives or that you get penalized by not complying because we are, after all, a Federal Nation.

Yes. We can debate how much of a particular issue is a State issue exclusively or the Federal Government issue exclusively. But the fact is that we are an inextricably linked society, and that we have transportation programs that transcend State borders one after the other.

I cannot tell how many requests I have gotten from the State of Maine over the years when I was chairman of

the Transportation Subcommittee to have Amtrak extend to Maine to get this little bridge fixed up to there, to get that little road fixed up there. Never was it said in these requests, "Now I know that we are asking for more than we should based on what we paid into the fund." The request was a legitimate one to the Federal Government.

Colorado—I know Colorado well. It is a State I love and have visited many times. I have recommended funding for Colorado highways, viaducts—the 23d Street viaduct in Denver, CO, because it was recommended. I recommended supporting the funding there. And it goes on place after place after place.

So this sudden shock that suggests that, "Well, you want the States to pay for their miscreants? You want States to pay for their deeds that they commit that cost the Government money?" Yes. Of course. Everybody pays their fair share. That is the way the game gets played. We are not talking about taking away food stamps or farm subsidies. We are talking about a very specific thing related to a very specific group which has a high incidence of injury and death relative to other types of transportation—very high incidence, often long-term illness, lifetime in many cases, for whom we pay extraordinarily high costs.

What the amendment of the Senator from Texas says is, if you do not take the appropriate precautions, that is a right that apparently is yours. But you have no right to assess the rest of the country bills for decisions that you make that cost us money. We have all kinds of laws regulating behavior.

I am surprised that we are debating this. We have laws against drinking and driving. We have laws against driving without a license. We have all kinds of laws that say this is the way society ought to conduct itself. We are, I remind my friends, a nation of laws. That means that there is a structure of conduct of behavior, to use the term of the Senator from Maine. There is a structure of behavior that you have to have in a society that has 250 million people, many with different interests, different backgrounds, different ideas about how we ought to conduct ourselves.

So we are a nation of laws. As a consequence of that we are going to be subject to some laws that we do not like. We are going to be subject to some restrictions that we may disagree with. But it is an essential factor in a complex society, in a complex world.

So we can disagree on a particular thing or another without suggesting that the sky is falling down, and that, if you do one thing, it is going to hurt everything else. Each one of these subjects is fair game. If someone wants to propose an amendment that would have penalties for not using sensible safety rules within a State, they have the right to do it. That is the nature of things. But let not the Senator from Texas be cowed by the threat that per-

haps there will be other amendments to follow.

We are here. We are here to do what we have to do in the interest of this highway bill. And if these amendments affect that, then I think we just have to proceed ahead.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate go into morning business not to exceed a minute and a half, and then return to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR WARNER'S VOTE ON CLOTURE

Mr. WARNER. Mr. President, at the present time my office is being overwhelmed with pressing calls with respect to the scheduled cloture vote tomorrow.

I wish to announce at this time that my vote tomorrow will be consistent with my vote today which is in opposition to cloture.

I thank the Chair.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to take a couple of minutes to finish and answer just a couple of things that were said.

First, in relation to what the Senator from New Jersey said, I do not think that we need to talk about what other areas might arise from some innovative approach to this amendment. This amendment is very simple and very straightforward. We are not talking about penalizing the States. We are talking about letting them do as they wish, do something that could add to the medical costs because we know this is a safety issue, and if they decide to exercise that right that they take the responsibility for it.

I think it is pretty simple. I think that Members are going to start seeing as we go down the road pursuing the unfunded mandates theory, and as we are turning things back to the States, the States are going to take responsibility for what they do. That is part of returning the power to the States, which I think is right thing to do.

So I support the underlying amendment. This is not a gutting amendment at all. It is an amendment that I think is the correct thing—that, if the States decide that they are going to opt out from the Federal helmet laws, they

take the responsibility for doing that. I think it is very simple and straightforward.

I urge the adoption of the amendment.

Thank you, Mr. President.

I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Thank you, Mr. President.

Just very briefly in response to what the Senator from New Jersey was talking about, that we have laws with respect to the drunk driving. The interesting part is how this amendment would not have an impact on somebody who is drunk while driving, or reckless driving, or somebody who overdoses on drugs, and all of these categories. They happen to be eligible for Medicaid, and Medicare. They still will get medical care. But a motorcycle rider who may not be wearing a helmet, abiding by State laws, gets in an accident, may not be any fault of their own, but would be denied medical care because they were not wearing a helmet even though they were abiding by that State's law, I do not think that is the approach that we should adopt.

I urge Members of the Senate to reject the amendment offered by Senator HUTCHISON.

Ms. SNOWE. Mr. President, I make the motion to table the amendment.

The PRESIDING OFFICER. The question is on the motion.

Ms. SNOWE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from Texas. On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—60

Abraham	D'Amato	Inhofe
Ashcroft	Daschle	Jeffords
Baucus	DeWine	Kassebaum
Bennett	Dole	Kempthorne
Bingaman	Domenici	Kohl
Boxer	Dorgan	Kyl
Bradley	Exon	Leahy
Brown	Feingold	Lott
Burns	Frist	Lugar
Campbell	Graham	McConnell
Coats	Grams	Moseley-Braun
Cochran	Grassley	Murkowski
Cohen	Gregg	Nickles
Conrad	Hatch	Nunn
Coverdell	Hatfield	Packwood
Craig	Helms	Pressler